

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Emma Stydahar	Team: Squad #13	CCRB Case #: 202002820	<input type="checkbox"/> Force <input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> Discourt. <input checked="" type="checkbox"/> O.L.	<input checked="" type="checkbox"/> U.S. <input type="checkbox"/> Injury
Incident Date(s) Thursday, 04/16/2020 12:01 AM, Thursday, 04/16/2020 2:35 AM, Thursday, 04/16/2020 3:11 AM	Location of Incident: Outside of 3235 White Plains Road; Outside of 755 East 214th Street; 47th Precinct stationhouse		Precinct: 47	18 Mo. SOL 10/16/2021	EO SOL 5/4/2022
Date/Time CV Reported Thu, 04/16/2020 8:08 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 04/22/2020 11:37 AM		
Complainant/Victim	Type	Home Address			
Subject Officer(s)	Shield	TaxID	Command		
1. POM Michael Gonzalez	24102	943312	047 DET		
2. An officer					
3. LT Joe Pulgarin	00000	942914	DBBX		
4. POM Michael Abbruzzese	06138	955701	047 PCT		
5. PO Andrew Distelhurst		958512	047 PCT		
Witness Officer(s)	Shield No	Tax No	Cmd Name		
1. POM John Ferris	8522	968410	047 PCT		
2. SGT Bryan Dasilva	03457	951656	047 PCT		
3. POM Matthew Scherf	16427	966843	047 PCT		
4. POF Renee Greco	31692	965155	047 PCT		
Officer(s)	Allegation			Investigator Recommendation	
A.LT Joe Pulgarin	Abuse: Outside of 3235 White Plains Road in the Bronx, Lieutenant Joe Pulgarin stopped § 87(2)(b)				
B.POM Michael Gonzalez	Abuse: Outside of 3235 White Plains Road in the Bronx, Police Officer Michael Gonzalez searched § 87(2)(b)				
C.POM Michael Gonzalez	Abuse: Outside of 3235 White Plains Road in the Bronx, Police Officer Michael Gonzalez frisked § 87(2)(b)				
D.POM Michael Gonzalez	Abuse: Outside of 3235 White Plains Road in the Bronx, Police Officer Michael Gonzalez seized § 87(2)(b) property.				
E.LT Joe Pulgarin	Abuse: Outside of 3235 White Plains Road in the Bronx, Lieutenant Joe Pulgarin failed to provide § 87(2)(b) with a business card.				
F.POM Michael Gonzalez	Abuse: Outside of 3235 White Plains Road in the Bronx, Police Officer Michael Gonzalez failed to provide § 87(2)(b) with a business card.				
G.POM Michael Gonzalez	Abuse: Outside of 755 East 214th Street in the Bronx, Police Officer Michael Gonzalez questioned § 87(2)(b)				
H.POM Michael Gonzalez	Discourtesy: Outside of 755 East 214th Street in the Bronx, Police Officer Michael Gonzalez spoke discourteously to § 87(2)(b)				

Officer(s)	Allegation	Investigator Recommendation
I.POM Michael Abbruzzese	Abuse: Outside of 757 East 214th Street in the Bronx, Police Officer Michael Abbruzzese searched § 87(2)(b) [REDACTED]	[REDACTED]
J.POM Michael Abbruzzese	Abuse: Outside of 757 East 214th Street in the Bronx, Police Officer Michael Abbruzzese failed to provide § 87(2)(b) [REDACTED] with a business card.	[REDACTED]
K.LT Joe Pulgarin	Abuse: Outside of 757 East 214th Street in the Bronx, Lieutenant Joe Pulgarin failed to provide § 87(2)(b) [REDACTED] with a business card.	[REDACTED]
L.PO Andrew Distelhurst	Abuse: Outside of 757 East 214th Street in the Bronx, Police Officer Andrew Distelhurst failed to provide § 87(2)(b) [REDACTED] with a business card.	[REDACTED]
M. An officer	Abuse: Outside of 757 East 214th Street in the Bronx, an officer failed to provide § 87(2)(b) [REDACTED] with a business card.	[REDACTED]
N.POM Michael Gonzalez	Off. Language: Outside of the 47th Precinct stationhouse in the Bronx, Police Officer Michael Gonzalez made remarks based upon the perceived mental status of § 87(2)(b) [REDACTED]	[REDACTED]
O.POM Michael Gonzalez	Discourtesy: Outside of the 47th Precinct stationhouse in the Bronx, Police Officer Michael Gonzalez spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]
P.POM Michael Gonzalez	Abuse: Outside of the 47th Precinct stationhouse in the Bronx, Police Officer Michael Gonzalez threatened § 87(2)(b) [REDACTED] with the use of force.	[REDACTED]
Q.POM Michael Gonzalez	Untruthful Stmt.: Police Officer Michael Gonzalez provided a false official statement to the CCRB.	[REDACTED]
R.POM Michael Gonzalez	Untruthful Stmt.: Police Officer Michael Gonzalez provided a false official statement to the CCRB.	[REDACTED]
§ 87(2)(g), § 87(4-b) [REDACTED]	[REDACTED] 123.	[REDACTED]
§ 87(2)(g), § 87(4-b) [REDACTED]	[REDACTED]	[REDACTED]
§ 87(2)(g), § 87(4-b) [REDACTED]	[REDACTED]	[REDACTED]
§ 87(2)(g), § 87(4-b) [REDACTED]	[REDACTED]	[REDACTED]
§ 87(2)(g), § 87(4-b) [REDACTED]	[REDACTED]	[REDACTED]
§ 87(2)(g), § 87(4-b) [REDACTED]	[REDACTED]	[REDACTED]
§ 87(2)(g), § 87(4-b) [REDACTED]	[REDACTED]	[REDACTED]
§ 87(2)(g), § 87(4-b) [REDACTED]	[REDACTED]	[REDACTED]

Case Summary

On April 16, 2020, § 87(2)(b) called IAB and filed this complaint, which was received by the CCRB on April 23, 2020.

On April 16, 2020, at approximately 12:00am, § 87(2)(b) was walking on White Plains Road between Burke Avenue and Rosewood Street in the Bronx, when officers, identified via investigation as Lieutenant Joe Pulgarin, Police Officer Michael Gonzalez, Police Officer Michael Abbruzzese, and Police Officer Andrew Distelhurst, all of the 47th Precinct, and an unidentified officer, stopped him (**Allegations A: Abuse of Authority**, § 87(2)(g)) PO Gonzalez searched § 87(2)(b) backpack, frisked § 87(2)(b) and seized a knife that § 87(2)(b) said had been inside his backpack (**Allegation B – D: Abuse of Authority**, § 87(2)(g)). The officers left without providing § 87(2)(b) with RTKA business cards (**Allegations E & F: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) began walking toward the 47th Precinct stationhouse.

Outside of 757 East 214th Street in the Bronx, § 87(2)(b) asked two different uniformed officers to call a supervisor to the location. Lieutenant Pulgarin, PO Gonzalez, PO Abbruzzese, PO Distelhurst, and the same unidentified officer arrived. PO Gonzalez questioned § 87(2)(b) and spoke discourteously to him (**Allegation G: Abuse of Authority**, § 87(2)(g)). **Allegation H: Discourtesy**, § 87(2)(g) and PO Abbruzzese searched § 87(2)(b) backpack (**Allegation I: Abuse of Authority**, § 87(2)(g)). PO Abbruzzese, Lieutenant Pulgarin, PO Distelhurst, and an unidentified officer allegedly failed to provide § 87(2)(b) with RTKA business cards (**Allegation J: Abuse of Authority**, § 87(2)(g)). **Allegation K: Abuse of Authority, Unfounded; Allegation L: Abuse of Authority**, § 87(2)(g). **Allegation M: Abuse of Authority**, § 87(2)(g).

§ 87(2)(b) continued walking toward the 47th Precinct stationhouse. Once there, PO Gonzalez spoke offensively and discourteously to him and threatened him with the use of force (**Allegation N: Offensive Language**, § 87(2)(g)). **Allegation O: Discourtesy**, § 87(2)(g). **Allegation P: Abuse of Authority**, § 87(2)(g).

The investigation determined that PO Gonzalez provided false official statements to the CCRB (**Allegations Q & R: False Official Statement**, § 87(2)(g), § 87(2)(g), § 87(4-b)).

§ 87(2)(b) received a summons for criminal possession of a weapon as a result of this incident (**Board Review 01**). As of November 5, 2021, the Office of Court Administration (OCA) had no record of the disposition of this summons.

The request for Body Worn Camera (“BWC”) footage of the first interaction § 87(2)(b) had with the officers was returned negative by NYPD Legal § 87(2)(g), § 87(4-b). BWC footage from § 87(2)(b) second and third interactions with the officers and stationhouse footage can be found in IAs #55, 56, and 86-90 (**Board Review 02-08**), and is summarized in IAs #57 and 91 (**Board Review 09-10**).

Findings and Recommendations

Allegation (A) Abuse of Authority: Outside of 3235 White Plains Road in the Bronx, Lieutenant Joe Pulgarin stopped § 87(2)(b)

Allegation (B) Abuse of Authority: Outside of 3235 White Plains Road in the Bronx, Police Officer Michael Gonzalez searched § 87(2)(b)

Allegation (C) Abuse of Authority: Outside of 3235 White Plains Road in the Bronx, Police Officer Michael Gonzalez frisked § 87(2)(b)

Allegation (D) Abuse of Authority: Outside of 3235 White Plains Road in the Bronx, Police Officer Michael Gonzalez seized § 87(2)(b) property.

Allegation (E) Abuse of Authority: Outside of 3235 White Plains Road in the Bronx, Lieutenant Joe Pulgarin failed to provide § 87(2)(b) with a business card.

Allegation (F) Abuse of Authority: Outside of 3235 White Plains Road in the Bronx, Police Officer Michael Gonzalez failed to provide § 87(2)(b) with a business card.

§ 87(2)(b) (Board Review 11, 12) said he was walking in the vicinity of White Plains Road and Burke Avenue while carrying a backpack that contained a knife he uses for his construction job, which had a blade that was between four and seven inches long. § 87(2)(b) noticed a few plainclothes officers interacting with a civilian across the street who had his hands up. § 87(2)(b) ignored them and kept walking. The officers, identified via investigation as Lieutenant Pulgarin, PO Gonzalez, PO Abbruzzese, PO Distelhurst, and an unidentified officer, entered two unmarked vehicles, made a U-turn, exited their vehicles, and approached § 87(2)(b) (Given Lieutenant Pulgarin supervisory role, the stop allegation has been solely pled against him.) The unidentified officer yelled at § 87(2)(b) to take his hands out of his pockets, and when § 87(2)(b) refused to do so and asked why he was being stopped, the officer grabbed his wrist. § 87(2)(b) jerked his hand away from the officer, though the officer maintained his grip. The officer said § 87(2)(b) fit the description of a suspect “from the projects,” but he gave no further details about the suspect or what they were wanted for.

§ 87(2)(b) said the five officers surrounded him. PO Distelhurst frisked § 87(2)(b) waist and legs, placed his hand inside § 87(2)(b) hoodie pocket, waist level front pants pockets, and both cargo pockets on his pant legs, unzipped § 87(2)(b) backpack, removed the knife, and told § 87(2)(b) that he was not supposed to have that. § 87(2)(b) said he used it for work and assumed PO Distelhurst returned the knife to his backpack. Lieutenant Pulgarin ordered § 87(2)(b) to provide his ID, and when he refused to do so, the officers entered their respective vehicles and left. § 87(2)(b) opened his backpack and realized that PO Distelhurst had taken his knife. § 87(2)(b) followed the officers’ vehicles on foot, trying to hail them down. [Though § 87(2)(b) attributed the frisk, search, and seizure of property allegations to PO Distelhurst, the investigation determined that PO Gonzalez is the subject of these allegations; therefore, they have been pled against him.]

There is no video evidence of this portion of the incident § 87(2)(g), § 87(4-b). Requests for Event documents and a Stop Report for § 87(2)(b) at this incident location were returned negative (Board Review 20-22).

Lieutenant Pulgarin, PO Gonzalez, and PO Abbruzzese were interviewed and said they and PO Distelhurst were working together on the incident date; they were not working with anyone else. They all either denied interacting with § 87(2)(b) at this location or did not recall interacting with him there (Board Review 13-15). However, they each acknowledged interacting with § 87(2)(b) on the incident date in the vicinity of 757 East 214th Street. (As described below, the investigation determined that the interactions they described actually occurred outside of 3235 White Plains Road, as § 87(2)(b) alleged.)

PO Gonzalez said he observed § 87(2)(b) with a large knife in plain view hanging off of his backpack. § 87(2)(b) was pacing back and forth and seemingly talking to himself (though PO Gonzalez could not hear what he said). After approximately one minute of observing § 87(2)(b)

he alone approached him and inquired why he had a knife. § 87(2)(b) began cursing at PO Gonzalez which, along with the knife in plain view, prompted PO Gonzalez to take a step away from § 87(2)(b) and request PO Distelhurst and PO Abbruzzese to respond to the location. They arrived within a minute or two, and PO Gonzalez, Lieutenant Pulgarin, PO Abbruzzese, and PO Distelhurst all approached § 87(2)(b). PO Gonzalez then frisked the outside of § 87(2)(b) clothing on his upper body and waist, and seized the knife from § 87(2)(b) by taking it off of § 87(2)(b) backpack. PO Gonzalez denied searching § 87(2)(b) backpack.

PO Abbruzzese and Lieutenant Pulgarin both said they believed they stopped § 87(2)(b) because he was carrying a knife in plain view, which the officers saw from their vehicle, though they were unsure of this. Lieutenant Pulgarin thought § 87(2)(b) had been pacing back and forth. Neither PO Abbruzzese nor Lieutenant Pulgarin recalled if § 87(2)(b) was frisked or if his backpack was searched. The knife was seized, though neither PO Abbruzzese nor Lieutenant Pulgarin could recall which officer seized it.

The NYPD's Department Advocate's Office confirmed that PO Distelhurst retired from the NYPD on July 27, 2020 (**Board Review 16**); therefore, he was not interviewed.

As described below, despite the officers' denial and lack of recall, the investigation determined that they did interact with § 87(2)(b) at this incident location. § 87(2)(g)

§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

Allegation (G) Abuse of Authority: Outside of 757 East 214th Street in the Bronx, Police Officer Michael Gonzalez questioned § 87(2)(b)

Allegation (H) Discourtesy: Outside of 757 East 214th Street in the Bronx, Police Officer Michael Gonzalez spoke discourteously to § 87(2)(b)

§ 87(2)(b) said as the officers drove off, he tried to flag them down to secure a property voucher for his knife but was unsuccessful, so he headed to the 47th Precinct stationhouse. En route, outside of 757 East 214th Street, he approached two uniformed officers who were interacting with an unidentified civilian and asked them to call a supervisor to the location. Lieutenant Pulgarin, PO Gonzalez, PO Abbruzzese, PO Distelhurst, and the same unidentified officer responded. PO Abbruzzese told § 87(2)(b) that they did not issue him a voucher at the prior location because he had been reluctant to provide his ID. § 87(2)(b) provided PO Abbruzzese with his ID. § 87(2)(b) made no mention of PO Gonzalez questioning him about his mental health.

PO Gonzalez's BWC footage (**Board Review 02**) begins with PO Gonzalez driving. At the 00:24 minute mark of the media player timestamp (visible at the bottom of the screen), PO Gonzalez exits the vehicle and approaches § 87(2)(b) who hands his ID to PO Abbruzzese (there is no audio yet at this point in the footage). PO Gonzalez and § 87(2)(b) have a brief conversation where § 87(2)(b) complains that his property was seized and he did not receive a voucher. § 87(2)(b) complains that the officers refused to stop when he tried to flag them down, and at 01:15, PO Gonzalez says, "I was on another job right now..." and "I think that maybe you just associate us all together, I guess. It's an honest mistake, I guess." § 87(2)(b) says he is not mistaken. At 01:49, PO Gonzalez says "You think we all look the same, I guess." At 01:56, § 87(2)(b) says he has a legal right to his property, and PO Gonzalez says he does not know what § 87(2)(b) is talking about. § 87(2)(b) says PO Gonzalez's BWC is activated and that it had not been "on Burke [Avenue]." PO Gonzalez says, "On Burke? See, I was in the valley about 10 minutes ago, so..."

§ 87(2)(b) says, "Okay." PO Gonzalez says, "Oh, man, Jesus, please. Pray for you."

At 02:54, PO Gonzalez asks § 87(2)(b) "Do you have any emotional issues? Like, ever been taken to the hospital for any mental...?" § 87(2)(b) does not respond. At 04:04, PO Gonzalez says, "You can't take this personal, brother. I think you do. I've seen you before on the street. And I've dealt with you when you've had your burst, your panics. It's okay, but don't take it personal." § 87(2)(b) says, "No you haven't." PO Gonzalez says he has been working in that precinct for 15 years. § 87(2)(b) replies, "Ten years of taking people's property?" PO Gonzalez says, "I think you just see stuff on the news and you just assume." § 87(2)(b) says "Yeah, sure." PO Gonzalez says, "It's unfortunate, but..."

PO Gonzalez acknowledged questioning § 87(2)(b) about his mental health history. He said he was trying to ascertain if § 87(2)(b) was okay or if he was having a "manic episode," because PO Gonzalez had been involved in jobs where § 87(2)(b) was removed to the hospital due to manic episodes in the past.

An officer's right to request information while discharging his law enforcement duties will hinge on the manner and intensity of the interference, the gravity of the crime involved, and the circumstances attending the encounter, which should be devoid of harassment, intimidation, or degradation. Questions should be circumscribed in scope to the officers' task as a member of service. People v. De Bour, 40 N.Y.2d 210 (**Board Review 17**). The mission, vision, and values of the NYPD includes maintaining a higher standard of integrity that is generally expected of others, valuing human life, respecting the dignity of each individual, and rendering services with courtesy and civility. NYPD Patrol Guide, Procedure 200-02 (**Board Review 18**). Officers are prohibited from the use of discourteous or disrespectful remarks regarding another person's ethnicity, race, religion, gender, gender identity/expression, sexual orientation, or disability. NYPD Patrol Guide, Procedure 203-10 (**Board Review 19**).

PO Gonzalez and Lieutenant Pulgarin said § 87(2)(b) had been pacing back and forth and PO Gonzalez said § 87(2)(b) had been talking to himself prior to being stopped. However, as noted below, the investigation determined that the officers' recollection of the first portion of this incident (specifically whether it happened or not), was inaccurate and therefore, the investigation cannot credit the officers' version of events regarding § 87(2)(b) behavior leading up to the initial stop. Nevertheless, the available BWC footage captures § 87(2)(b) behavior throughout the course of his second interaction with the officers, which took place later and is when PO Gonzalez questioned him about his mental health. Though § 87(2)(b) appeared visibly upset and verbally expressed his frustration, the investigation determined this to be behavior consistent with being stopped and one's property being seized without being issued any documentation of the seizure, not behavior indicative of one possibly experiencing a "manic episode."

At no point during this interaction did § 87(2)(b) make any statements or take any actions that would lead an officer to reasonably believe he might have been experiencing a mental health crisis. In fact, the statements made by PO Gonzalez, namely his denial about knowing what § 87(2)(b) was talking about when he referenced the first interaction and seizure of § 87(2)(b) property (property which PO Gonzalez acknowledged seizing in his CCRB interview), his questioning of § 87(2)(b) about his mental health history, and his statements about witnessing § 87(2)(b) experiencing mental health crises in the past, are all more consistent with an overt attempt to gaslight, degrade, and antagonize § 87(2)(b) than an attempt to investigate or help him. § 87(2)(b)

(g)

Allegation (I) Abuse of Authority: Outside of 757 East 214th Street in the Bronx, Police Officer Michael Abbruzzese searched § 87(2)(b)
Allegation (J) Abuse of Authority: Outside of 757 East 214th Street in the Bronx, Lieutenant Joe Pulgarin failed to provide § 87(2)(b) with a business card.
Allegation (K) Abuse of Authority: Outside of 757 East 214th Street in the Bronx, Police Officer Michael Abbruzzese failed to provide § 87(2)(b) with a business card.
Allegation (L) Abuse of Authority: Outside of 757 East 214th Street in the Bronx, Police Officer Andrew Distelhurst failed to provide § 87(2)(b) with a business card.
Allegation (M) Abuse of Authority: Outside of 757 East 214th Street in the Bronx, an officer failed to provide § 87(2)(b) with a business card.

In PO Gonzalez's BWC footage (**Board Review 02**), at the 04:51 minute mark of the media player timestamp (visible at the bottom of the screen), PO Gonzalez walks back to his vehicle, where he begins filling out a summons. In Lieutenant Pulgarin's BWC footage, at the 05:30 minute mark of the media player timestamp (visible at the bottom of the screen), Lieutenant Pulgarin is seen holding a flashlight for PO Gonzalez as he writes the summons.

In PO Abbruzzese's BWC footage (**Board Review 04**), at the 05:07 minute mark of the media player timestamp (visible at the bottom of the screen), after PO Gonzalez and Lieutenant Pulgarin have stepped away to prepare the summons, § 87(2)(b) asks whose name and shield number will be on the summons. PO Abbruzzese responds, "The guy whose issuing you the ticket." § 87(2)(b) tells PO Distelhurst and PO Abbruzzese, "I want all your tax IDs." PO Distelhurst verbally provides his tax registry number, though PO Abbruzzese does not provide his. § 87(2)(b) removes his backpack from his back and PO Abbruzzese orders him not to open it. § 87(2)(b) asks, "Are you going to write them down?" PO Abbruzzese says no. § 87(2)(b) says he is going to get a pen. PO Abbruzzese says, "Let me check your bag before you go inside your bag." § 87(2)(b) says, "You already checked my bag, you checked it over there." PO Abbruzzese says, "That was a while ago." § 87(2)(b) says, "And you weren't even supposed to check my bag. You were supposed to have a warrant." PO Abbruzzese says, "Can I have your bag, please?" § 87(2)(b) asks if he can borrow a pen from the officers and PO Abbruzzese says no. At 06:04, § 87(2)(b) hands PO Abbruzzese his backpack and says, "This pocket right here." A zipper is heard opening and § 87(2)(b) tells PO Abbruzzese to take out a pen. PO Abbruzzese says, "We're going to leave the pens in there for now." § 87(2)(b) says he needs something to write with and PO Abbruzzese says, "I'm not letting you hold a pen while I'm this close to you." § 87(2)(b) requests his backpack back and PO Abbruzzese hands it to him.

In PO Gonzalez's BWC footage (**Board Review 02**), at the 09:45 minute mark of the media player timestamp (visible at the bottom of the screen), PO Gonzalez finishes writing the summons, approaches § 87(2)(b) hands him the summons, and tells him that he will eventually receive a property voucher. § 87(2)(b) protests, stating that the knife is for work purposes. Lieutenant Pulgarin replies that § 87(2)(b) was unable to provide a work ID. At 10:45, PO Abbruzzese says that even work knives need to be less than four inches. At 11:09, Lieutenant Pulgarin tells § 87(2)(b) he can go to the stationhouse the following morning to obtain a property voucher, and the officers walk away.

§ 87(2)(b) statement was generally consistent with the BWC footage, though he said he requested the officers' shield numbers as opposed to their tax registry numbers. Lieutenant Pulgarin, PO Gonzalez, PO Abbruzzese, PO Distelhurst, and the unidentified officer were all in earshot when § 87(2)(b) made this request. (Because PO Gonzalez ultimately provided his identifying information to § 87(2)(b) on the summons, this allegation has not been pled against him.)

PO Abbruzzese did not recall § 87(2)(b) requesting his shield number, though he acknowledged that § 87(2)(b) requested his tax registry number. PO Abbruzzese did not provide his tax registry number because officers are not required to do so. He did not provide any other identifying information because § 87(2)(b) specifically requested his tax registry number. PO Abbruzzese did not provide § 87(2)(b) with a business card because he was issued a summons. When § 87(2)(b) requested to be able to use a pen to write down the officers' identifying information, PO Abbruzzese told him he could not for the following reasons: a pen could be used as a weapon, PO Abbruzzese was standing close to § 87(2)(b) and § 87(2)(b) was already in an agitated state, as he was verbally combative and argumentative with the officers when they explained to him that he could not have his knife. PO Abbruzzese could not say why he took § 87(2)(b) backpack and searched it, except that maybe he was going to allow § 87(2)(b) to have a pen, then decided against it. He did not recall his thought process at the time of his CCRB interview.

No Event or Stop Report was prepared regarding this incident (**Board Review 20-22**). The 47th Precinct roll call lists PO Gonzalez, PO Distelhurst, and PO Abbruzzese as comprising the Anti-Crime team at the time of the incident (**Board Review 23**). PO Distelhurst's and PO Abbruzzese's memo books list them as each other's partner, and PO Gonzalez's memo book lists his partner as Lieutenant Pulgarin, though none of their memo books contain any entries regarding this incident (**Board Review 24-26**). Lieutenant Pulgarin and PO Abbruzzese conducted warrant audits for § 87(2)(b) on the incident date (**Board Review 27**). None of the obtained NYPD documentation identified a fifth officer who may have been working with these officers at the time of this incident.

An officer shall offer a business card to any person requesting identifying information, or provide their name, rank, and command verbally to such person and allow such person sufficient time to record such information. NYC Administrative Guide § 14-174 (**Board Review 28**). Constitutional protections against unreasonable searches and seizures are not limited to private premises, and a person may have a legitimate expectation of privacy in a container such as a bag. People v. Ramirez-Portoreal, 88 N.Y.2d 99 (**Board Review 29**). An officer may search a bag when the owner knowingly, intelligently, and voluntarily consents to the search. People v. Cameron, 73 Misc. 2d 790 (**Board Review 30**).

The investigation determined that § 87(2)(b) request for the officers' tax registry numbers constituted a request for identifying information as defined in the Administrative Guide. Therefore, in response to § 87(2)(b) request, PO Abbruzzese was required to verbally provide the requested information and allow § 87(2)(b) time to record it, or otherwise identify himself by providing his business card. The BWC footage shows that PO Abbruzzese did neither. § 87(2)(b)

At the time § 87(2)(b) requested the officers' identifying information, Lieutenant Pulgarin and PO Gonzalez had stepped away from where § 87(2)(b) was standing on the sidewalk to generate a summons on the hood of a parked car. § 87(2)(b) made that request in a normal speaking voice, and the request is not audible in either Lieutenant Pulgarin's or PO Gonzalez's BWC footage. Given that Lieutenant Pulgarin was not in a position to hear § 87(2)(b) request for the officers to identify themselves, § 87(2)(g)

. § 87(2)(g)

Though § 87(2)(b) handed his backpack to PO Abbruzzese, potentially implying that he consented to the search, he did so after PO Abbruzzese refused to allow him to obtain a pen to record the officers' identifying information by any other means. PO Abbruzzese implied that he would allow § 87(2)(b) to have a pen after he searched the backpack, yet even after doing so, he again refused to allow § 87(2)(b) to enter his backpack to obtain a pen. PO Abbruzzese could not articulate a reasonable explanation as to why he first told § 87(2)(b) he would be able to take a pen out of the backpack after it was searched and then refused to allow him to do so. § 87(2)(b)

[REDACTED]

(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Allegation (N) Offensive Language: Outside of the 47th Precinct stationhouse in the Bronx, Police Officer Michael Gonzalez made remarks based upon the perceived mental status of § 87(2)(b)

Allegation (O) Courtesy: Police Officer Michael Gonzalez spoke discourteously to § 87(2)(b)

Allegation (P) Abuse of Authority: Outside of the 47th Precinct stationhouse in the Bronx, Police Officer Michael Gonzalez threatened § 87(2)(b) with the use of force.

§ 87(2)(b) said after he received the summons, he went to the 47th Precinct stationhouse to obtain a property voucher. There was an officer standing near the entrance. § 87(2)(b) was not allowed inside due to the Covid-19 Pandemic. He asked to speak with a supervisor and stood near the entrance for approximately 30 minutes before PO Gonzalez approached him.

PO Gonzalez's BWC footage (**Board Review 06**) starts with him speaking with officers inside the stationhouse near the front desk while holding a black knife. At the 00:20 minute mark of the media player timestamp (visible at the bottom of the screen), PO Gonzalez hands the knife to an officer, exits the stationhouse, and approaches § 87(2)(b) who is standing just outside the entrance. PO Gonzalez asks, "What's up?" § 87(2)(b) says he is waiting for a supervisor. PO Gonzalez asks if everything is alright. § 87(2)(b) does not respond. PO Gonzalez tells § 87(2)(b) that the knife is going to be vouchered and says, "You know, you bring this upon yourself." § 87(2)(b) responds, "You bring this upon yourself." PO Gonzalez asks what he means, and § 87(2)(b) says, "You'll find out." PO Gonzalez again asks § 87(2)(b) what he means and says he should not take the situation personally. § 87(2)(b) does not respond.

Between 01:44 and 03:10, PO Gonzalez tells § 87(2)(b) he cannot have a large knife, that he should not take it personally, that PO Gonzalez was just doing his job, and that he does not believe the knife was for work. § 87(2)(b) mentions officers "shooting each other up," calls PO Gonzalez an "asshole," and tells PO Gonzalez, "You're doing this job because you have a third-grade education." At 03:15, PO Gonzalez replies, "You're the one who's debating with me right now. You're upset because of pure, pure, moronic behavior on your behalf," and he again says § 87(2)(b) should not have had a large knife and that he was just doing his job.

At 03:39, § 87(2)(b) says, "Yeah, and I'll get the last laugh, you'll find out." PO Gonzalez says, "I don't know what you mean by that. Tell me, as a man." PO Gonzalez gestures towards his chest and says, "When I take this off, and I take everything off, tell me what you're going to do. Let me know, let me know. I mean, because I want to know if you're threatening me. Cause if you're threatening me, I can take this stuff off and we can walk down the block. If that's what you want to

do. But if that's not what you want to do, then don't talk to me like that. Be a man. It was a dagger. It's not that serious. It's a summonsable offense. You go to court. If you win that case, you get it back. But you are not going to make a threat to me like I'm some punk." § 87(2)(b) does not respond and continues to stand stationary. At 04:14, Lieutenant Pulgarin approaches, and PO Gonzalez says, "He's basically telling me I'm going to have a problem after all this. I'm not having that." Lieutenant Pulgarin asks § 87(2)(b) "Why is he going to have a problem?" PO Gonzalez says, "Let me know, let me know, so I can take this stuff off and we can walk down the block. Tell me." Again, § 87(2)(b) does not respond and continues to stand stationary.

§ 87(2)(b) statement was generally consistent with the BWC footage. He said PO Gonzalez said, "I can take off all this stuff right now and we can go across the street and have it out." § 87(2)(b) said he told PO Gonzalez that he would "get the last laugh" because he was planning on filing a complaint with IAB. § 87(2)(b) did not mention PO Gonzalez calling his behavior "moronic."

PO Gonzalez said he encountered § 87(2)(b) who was requesting a copy of the voucher for his knife, outside of the stationhouse, and § 87(2)(b) told PO Gonzalez that he was going to "have a problem when he got out of work." PO Gonzalez interpreted that as a threat, because "people in general are acting irrational and making bad decisions" and PO Gonzalez's main concern is getting home to his family. PO Gonzalez also thought § 87(2)(b) was threatening him because § 87(2)(b) mentioned an NYPD detective who was shot and killed. PO Gonzalez said he called § 87(2)(b) behavior "moronic" because § 87(2)(b) continued to escalate the situation by showing up at the stationhouse and telling PO Gonzalez that he had a "third grade education." PO Gonzalez was also referring to § 87(2)(b) earlier behavior of carrying a large knife, pacing, and cursing, which PO Gonzalez thought was "crazy" and "not normal" behavior.

PO Gonzalez said he told § 87(2)(b) they could "walk down the block" because he was suggesting that they could talk and try to "resolve their issues with words." When asked why he suggested leaving the stationhouse, PO Gonzalez said he thought § 87(2)(b) may have felt better outside of the context of the stationhouse because he may have interpreted having multiple officers around as a threat and may have felt uncomfortable. PO Gonzalez told § 87(2)(b) he would take his bullet proof vest and gun off so they "could talk like men," so § 87(2)(b) would not feel threatened by the fact that PO Gonzalez is an officer. PO Gonzalez denied that his intention when making any statement during this conversation was to threaten § 87(2)(b) with the use of force or intimidate him in any way.

Officers must render their services with courtesy and civility, and maintain a higher standard of integrity than is generally expected of others. NYPD Patrol Guide, Procedure 200-02 (**Board Review 18**). Officers are prohibited from using discourteous or disrespectful remarks regarding someone's disability, including perceived mental disability or mental status. NYPD Administrative Guide, Procedure 304-06 (**Board Review 31**). Force may be used when it is reasonable to ensure the safety of officers or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances. NYPD Patrol Guide, Procedure 221-01 (**Board Review 32**).

Calling § 87(2)(b) behavior "moronic" violated the standards set forth in the Patrol Guide and Administrative Guide in that it was a remark based upon § 87(2)(b) perceived intelligence and mental ability, which amounted to an unprofessional disregard for § 87(2)(b). The investigation does not credit PO Gonzalez's explanation that he told § 87(2)(b) he could take his gear off and they could walk down the block so they could have a conversation. Per his own testimony, PO

Gonzalez thought § 87(2)(b) was threatening him with physical violence, so leaving the stationhouse and the presence of other officers – without his bullet proof vest and firearm at that – would have been nonsensical.

The investigation determined that PO Gonzalez's response to § 87(2)(b) perceived threat, saying he can remove his gear and they could "walk down the block" and "You're not going to make a threat to me, like I'm some punk," amounted to a threat of physical force. At the time the threat was made, § 87(2)(b) was standing stationary and not exhibiting any active aggression.

§ 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

Allegation (Q) Untruthful Statement: Police Officer Michael Gonzalez provided a false official statement to the CCRB.

On December 27, 2021, PO Gonzalez testified that he observed § 87(2)(b) in possession of a large knife in plain view in the vicinity of 757 East 214th Street. PO Gonzalez said he approached § 87(2)(b) frisked him on his upper body and waist, and seized the knife. PO Gonzalez was shown the entirety of his BWC footage (**Board Review 02**), which captures him driving up to the incident location, interacting with § 87(2)(b) generating a summons, providing the summons to § 87(2)(b) and walking away. PO Gonzalez denied having any other interaction with § 87(2)(b) at that location other than what is captured on the BWC footage. At no point in the BWC footage is PO Gonzalez captured frisking § 87(2)(b) or seizing a knife from him.

When asked if he wanted to amend his testimony regarding at what point he seized the knife, PO Gonzalez said he knew the knife was seized and vouchered but could not tell at what point within the BWC footage it was seized. PO Gonzalez declined to amend his testimony regarding frisking § 87(2)(b). When asked if he was sure he frisked § 87(2)(b) or if it could have been another officer that did so, or if the frisk might have occurred at a different location, PO Gonzalez stated his prior testimony was what he remembered from the incident; he confirmed that he frisked § 87(2)(b) and seized his knife, and stated that the BWCs "aren't the best" and they "don't capture everything at times," that he "has had malfunctions with [his BWC] before," and that he believed that during the interactions at this incident location, his BWC malfunctioned and that is why the footage did not capture his acknowledged actions.

A false statement is an intentional statement that a member of the service knows to be untrue, which is material to the outcome of an investigation, proceeding, or other matter in connection with which the statement is made. A material fact is a significant fact that a reasonable person would recognize as relevant to, or affecting, the subject matter of the issue at hand, including any foreseeable consequences. It is a fact that is essential to the determination of the issue and the suppression, omission, or alteration of such fact would reasonably result in a different decision or outcome. Intentionally making a false official statement regarding a material matter will result in separation from the Department, absent extraordinary circumstances. NYPD Patrol Guide, Procedure 203-08 (**Board Review 33**).

Though PO Gonzalez did not recall interacting with § 87(2)(b) outside of 3235 White Plains Road, he acknowledged frisking § 87(2)(b) and seizing his property. PO Gonzalez said he did so in the vicinity of 757 East 214th Street, but § 87(2)(b) said that interaction happened outside of 3235 White Plains Road. PO Gonzalez was shown his BWC footage, which captures the entire time he was present at 757 East 214th Street, from him arriving through him leaving, and he acknowledged that it does not capture him frisking § 87(2)(b) or seizing the knife. Rather than admit he took those actions earlier at the first incident location, PO Gonzalez said he believed those

portions of the incident were not captured on his BWC due to his camera malfunctioning.

However, there is no evidence of PO Gonzalez's BWC malfunctioning during this incident. The footage remains steady with no breaks, pauses, or skips. PO Gonzalez's statement that his BWC must have malfunctioned was a material fact related to his ability to deny being present at the first incident location, where he and his fellow officers were accused of stopping, searching and frisking § 87(2)(b) seizing a knife from § 87(2)(b) and failing to provide § 87(2)(b) with business cards. § 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[Allegation \(R\) Untruthful Statement: Police Officer Michael Gonzalez provided a false official statement to the CCRB.](#)

As discussed above within the analysis of Allegation P, on December 27, 2021, PO Gonzalez testified that, outside of the 47th Precinct stationhouse, he told § 87(2)(b) he could take his gear off and they could walk down the block because he was suggesting that the two could have a conversation away from the stationhouse and other officers.

A false statement is an intentional statement that a member of the service knows to be untrue, which is material to the outcome of an investigation, proceeding, or other matter in connection with which the statement is made. A material fact is a significant fact that a reasonable person would recognize as relevant to, or affecting, the subject matter of the issue at hand, including any foreseeable consequences. It is a fact that is essential to the determination of the issue and the suppression, omission, or alteration of such fact would reasonably result in a different decision or outcome. Intentionally making a false official statement regarding a material matter will result in separation from the Department, absent extraordinary circumstances. NYPD Patrol Guide, Procedure 203-08 (Board Review 33).

As discussed above, the investigation does not credit PO Gonzalez's explanation that he was suggesting he and § 87(2)(b) could have a conversation, and determined that PO Gonzalez's statements that he could remove his gear and he and that § 87(2)(b) could "walk down the block" amounted to a threat of force. § 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

§ 87(2)(g), § 87(4-b)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

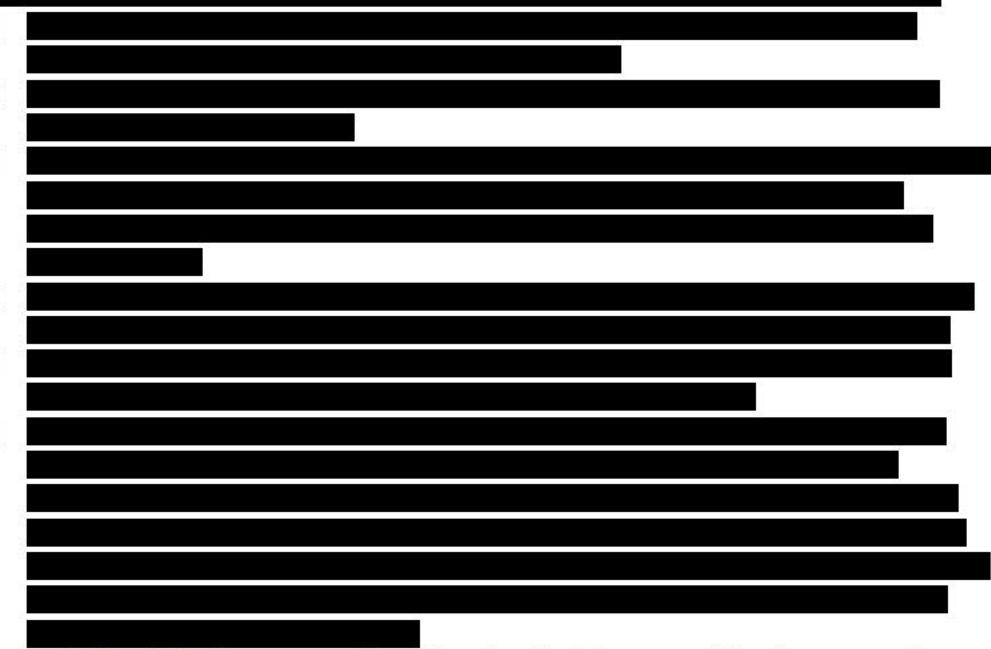
[REDACTED]

[REDACTED]

§ 87(2)(g), § 87(4-b)



Civilian and Officer CCRB Histories

- § 87(2)(b)
- 

- Lieutenant Pulgarin had been a member of service for 15 years and has been named a subject in six additional complaints, comprised of nine allegations, none of which were substantiated.
- PO Gonzalez has been a member of service for 15 years and has been named a subject in 20 additional complaints, comprised of 47 allegations, none of which were substantiated.
- PO Abbruzzese has been a member of service for eight years and has been named a subject in one additional complaint, comprised of one allegation which was not substantiated.
- PO Distelhurst retired from the NYPD. He was named a subject in five additional complaints, comprised of eight allegations, none of which were substantiated.

- § 87(2)(g)
[REDACTED]

Mediation, Civil and Criminal Histories

- § 87(2)(b) [REDACTED] declined to mediate this complaint.
- As of January 19, 2022, § 87(2)(b) [REDACTED] has not filed a Notice of Claim with the New York City Comptroller's Office in regards to this incident (**Board Review 38**).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]

Squad No.: 13

Investigator: Inv. Emma Stydahar Inv. Emma Stydahar 02/08/2022
Signature Print Title & Name Date

Squad Leader: Laura Kastner IM Laura Kastner 02/08/2022
Signature Print Title & Name Date